

PT 95-11
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
SPRINGFIELD, ILLINOIS

ASI)
Applicant) Docket No.: 91-16-0966
) Parcel Index No.:14-30-314-046-000
v.)
)
DEPARTMENT OF REVENUE) Barbara S. Rowe
OF THE STATE OF ILLINOIS) Administrative Law Judge
)

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Pearl A. Zager, Attorney for Applicant

SYNOPSIS: The Cook County Board of Appeals filed a Statement of Facts in Exemption Application with the Illinois Department of Revenue (the Department) for ASI (the applicant). The Department denied the application finding the primary use of the property was not charitable nor was the property in exempt use. The applicant filed a protest and requested a hearing. The hearing was held. It is the decision of the Department that a portion of the parcel herein question was in exempt ownership and use for the taxable year in question.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that Cook County parcel index number 14-30-314-046-000 was not in exempt ownership and use during the 1991 assessment year was established by admission into evidence of Department's Exhibits 1 through 6(c).

2. The applicant filed a Board of Appeals - Statement of Facts in Exemption Application with the Cook County Board of Appeals. On July 2, 1992, the Cook County Board of Appeals recommended the first floor only be granted an exemption. The application was forwarded to the Department and

received on July 24, 1992 (Department's Exhibit 2).

3. On October 29, 1992, the Department denied the exemption finding:
THE PRIMARY USE OF THE PROPERTY IS NOT CHARITABLE.

THE PROPERTY IS NOT IN EXEMPT USE (Department's Exhibit 3).

4. On November 18, 1992, the attorney for the applicant requested that the matter be reviewed (Department's Exhibit 4).

5. On September 7, 1994, the Department issued a Notice of Hearing for a hearing to be held November 1, 1994 at 9:00 a.m. in Chicago, Illinois. The hearing was held pursuant to that notice (Department's Exhibit 5).

6. The applicant acquired the parcel here in question by a Warranty Deed on October 1, 1991 (Department's Exhibit 2(a)). The applicant testified that the activities on the premises took place from October 2, 1991 to the end of the assessment year (Transcript (Tr.) 41).

7. The applicant leases the second and third floors of the building on the premises for \$1,650.00 per month rent (Department's Exhibit 2(f)). The area leased is 4107 square feet or approximately 23 percent of the building (Department's Exhibit 2(L)(2), Tr. 49).

8. The applicant is incorporated under the General Not For Profit Corporation Act of the State of Illinois. The applicant's purpose as stated in a rider to the Articles of Incorporation is:

Asi's mission is to assist people in the city of Chicago to achieve self-sufficiency. Asi's services are available to persons of all backgrounds; with a special commitment to Chicago's Hispanic communities. Through its program, Asi helps individuals meet the challenge of reaching and maintaining independent, dignified lives. These programs include: job readiness-training and placement and the provision of Homemaker services to senior citizens and people with disabilities (Department's Exhibit 2(i)).

9. The applicant operates a Community Care Program, a Chore Housekeeping program, Department of Rehabilitation Services program, a Community Development Block Grants program, an Age 55 and Over Job Club and

a Homemaker Training and Project Chance program. The programs are funded by various State and City of Chicago agencies with which applicant contracts (Department's Exhibit 2(i), Applicant's Exhibit 1, 3, & 4).

10. The applicant also receives funding from various grants and trusts. The clients served may pay a portion of the fees depending upon the department and guidelines involved but no client is required to pay 100% of the cost of the services provided by the applicant (Tr. 26-29).

11. The applicant has no right to refuse a client and may not terminate a relationship with a client that is referred by case management (Tr. 18). If the homemaker client cannot pay the prorated portion of the services, the applicant absorbs the cost (Tr. 42).

12. The applicant submitted affidavits, I and II of Rebecca Cruz, Executive Director of applicant. Affidavit I explained the Homemaker Training and Employment Program which assists the 2,000(+) clients that ASI has. ASI conducted four training programs on the parcel herein question in 1991 which were presented to 1,193 staff personnel (Department's Exhibit 2(L)(3)). Affidavit II states:

Future Use of Building: Asi has on the market the facility at 2619 West Armitage. As soon as this property is sold, we will begin the First Stage of rehabbing the 2435-39 North Western Avenue building. Once the First Stage is completed, all programs and staff will be relocated to 2435-39 West Western.

We expect this to begin sometime next summer (1993). Asi is actively conducting a Capital Campaign to raise the necessary funds to rehab and complete building.

The renovation project is divided into Three Stages. As soon as Stage I is completed which is the installment of a heating and air conditioning unit it will allow us to move into the building and conduct business.

Stage II is the completion of office space and Stage III is the renovation of the second floor at which time Asi will take over the second floor. Stages II and III can be completed while Asi conducts its daily business (Department's Exhibit 2(L)(4)). The affidavit was dated September 29, 1992 (Department's Exhibit 2(L)(4)).

13. The applicant testified that administrative activities were

handled at the 2619 building, which is not the parcel herein question (Tr.40).

14. The applicant was granted a 501(c)(3) exemption from federal income tax on September 4, 1979 (Department's Exhibit 2(k)(2)).

15. The applicant submitted a copy of the Real Estate Exemption Certificate that the Department had granted the applicant for the property at Parcel Index Number 13-36-402-049, granted for 56% of the 1984 assessment year and 100% of subsequent years (Applicant's Exhibit 7, Tr. 52).

16. Upon checking Departmental records, the prior property tax exemption issued by the Department to this applicant for the building located at 2619 West Armitage, Parcel Index Number 13-36-402-049, Docket Number 84-16-366, was granted to a charitable organization. The services provided by the applicant enumerated in the 1984 exemption request are the same as the services provided by the applicant on the parcel herein question (Post-Hearing Exhibit 1).

CONCLUSIONS OF LAW:

Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The statutes of Illinois have provisions for property tax exemptions. In particular, 35 ILCS 205/19.7 (1992 State Bar Edition), (1991 Illinois Revised Statutes, Chapter 120, Paragraph 500.7), exempts certain property from taxation in part as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States, all property of old people's homes and facilities for the developmentally disabled, ...when such property is actually and exclusively used

for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;....All old people's homes or homes for the aged or facilities for the developmentally disabled...shall qualify for the exemption stated herein if upon making an application for such exemption, the applicant provides affirmative evidence that such home or facility...is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code,...and...the bylaws of the home or facility...provide for a waiver or reduction of any entrance fee, assignment of assets or fee for services based upon the individual's inability to pay,...

Based on the facts and law above, I recommend that seventy-seven percent of the parcel herein question be exempt from payment of property tax for 25 percent of the 1991 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

February 23, 1995